

AN ORDINANCE
BY COUNCILMEMBER ANNE FAUVER

08-0-2136

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF ATLANTA, SO AS TO CREATE SECTION 174 OF CHAPTER 74 ENTITLED "GRAFFITI ABATEMENT"; TO REPEAL THE PROVISIONS OF ARTICLE VIII OF CHAPTER 106 ENTITLED "GRAFFITI ABATEMENT"; AND FOR OTHER PURPOSES

WHEREAS, Chapter 106 of the Atlanta Code of Ordinances currently lists the application of unauthorized graffiti on public and/or private buildings or structures as a miscellaneous offense; and

WHEREAS, failure on the part of the property owner to remove graffiti is not an actionable offense; and

WHEREAS, the City of Atlanta finds that unauthorized graffiti constitutes a nuisance for which regulations are needed to require the abatement within a reasonable time after proper notice to persons exercising control over or having a legal or equitable interest in a parcel of real property; and

WHEREAS, consistent with the declaration of graffiti as a nuisance, the offense of graffiti should be removed from the miscellaneous offenses of Chapter 106 and codified within the nuisance provisions of Chapter 74 of the Atlanta Code of Ordinances.

THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS AS FOLLOWS:

Section 1: That Section 174 of Chapter 74 of the Atlanta City Code entitled "Graffiti Abatement" is hereby created and shall read as follows:

Sec. 74-174. Graffiti Abatement

(a) Definition.

"*Graffiti*" is defined according to O.C.G.A. 42-17-15A(2) as "any inscriptions, words, figures, paintings, or other defacements that are written, marked, etched, scratched, sprayed, drawn, painted, or engraved on or otherwise affixed to any surface of real property or improvements thereon without prior authorization of the owner or occupant of the property by means of any aerosol paint container, broad-tipped marker, gum label, paint stick, graffiti stick, etching equipment, brush, or other device capable of scarring or leaving a visible mark on any surface."

(b) Prohibited acts. It shall constitute a nuisance and shall be unlawful for:

- (i) any person(s) to deface, alter, modify, change, draw, damage or destroy by spraying or use of paint, or marking of ink, dye or any other similar

substance on public and/or private buildings or structures, an inscription, slogan, drawing or modification, or otherwise damage private or public property in contradiction of other City Ordinances, by or through the application of "graffiti" as defined herein;

- (ii) any person exercising control over or having a legal or equitable interest in a parcel of real property to permit graffiti to remain on public and/or private buildings or structures located thereon after the expiration of the time to remove in accordance with subsection (c).

(c) *Notice to Remove.* No person exercising control over or having a legal or equitable interest in a parcel of real property shall be subject to citation for permitting graffiti to remain on public and/or private buildings or structures located thereon without first having been given 30 days from the date of written notice, in accordance with the provisions of Sec. 10 of the Atlanta Housing Code, to remove the graffiti.

(d) *Removal by inmates.* In order to provide a form of compensation by the state to innocent victims of unlawful acts in violation of section (b), the City of Atlanta authorizes the use of labor by inmates from the Atlanta City Detention Center to remove or obliterate such unlawfully placed graffiti when such graffiti is visible from any public road or other public property. The rules and regulations governing such use of labor by inmates shall be directed by the City of Atlanta's Department of Corrections and subject to the rules and regulations of the Board of Corrections of Georgia.

(e) *Enforcement.* Any person empowered by the City of Atlanta to issue citations may issue citations as a violation of Sec. 1-8.

Section 2: That Article VIII of Section 106 entitled "Graffiti Abatement" is hereby repealed in its entirety.